

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Thomas Akers )  
Dist. 5, Map 33, Control Map 33, Parcel 24.00 ) Claiborne County  
S.I. 000 )  
Residential Property )  
Tax Year 2005 )

### INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$80,800	\$ -0-	\$80,800	\$20,200

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on July 11, 2006 in Knoxville, Tennessee. In attendance at the hearing were Thomas and Judy Akers, Claiborne County Property Assessor, Kay Sandifer and Judy Meyers.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 61.7 acre tract that was previously part of a 68.3 acre tract owned by William W. Kilgore, III. At that time, subject property received preferential assessment under the greenbelt law. See Tenn. Code Ann. § 67-5-1001, et seq.

On December 4, 2003, Mr. Kilgore died. Mr. Kilgore's will left 61.7 acres of subject tract to Mr. Akers. When the estate was settled in 2004 the 61.7 acres was transferred to Mr. Akers by a quitclaim deed dated September 15, 2004.

On May 22, 2004, the assessor of property sent the taxpayer a “courtesy” notice entitled “Notice to Purchasers of Greenbelt Farm Property.” Said notice essentially asked the property owner whether he wished to continue or discontinue the greenbelt classification. The notice asked that the property owner check one of the following choices and return the form to the assessor:

\_\_\_\_\_ I do not intend to farm this property and I do not wish to continue the greenbelt classification on my farm (rollback taxes will be assessed to seller/previous owner).

\_\_\_\_\_ I intend to farm this property and will meet the \$1,500 income requirement to keep the property under greenbelt. *In order to do this, I understand I will have to make an application in the Assessor's Office within 30 days. This application must be recorded in the Register of Deeds Office. . . .*

[Emphasis supplied]



The assessor sent the taxpayer a second notice on January 24, 2005 because the original notice was not returned. Mr. Akers signed the second notice on January 27, 2005 and returned it to the assessor of property.

Mr. Akers testified he took no further action because he erroneously believed that the above-referenced form was the greenbelt application. According to Mr. Akers, it was not until receiving the tax bills in October of 2005 that he made additional inquiries and realized the need to file a greenbelt application. Mr. Akers subsequently executed a greenbelt application on October 31, 2005. The assessor approved the application effective with the 2006 tax year.

There is no dispute that subject property would have qualified to remain on greenbelt for tax year 2005 had an application been timely filed. Thus, the sole issue before the administrative judge concerns whether the foregoing facts would somehow allow the restoration of greenbelt for tax year 2005. For the reasons discussed immediately below, the administrative judge must reluctantly conclude that subject property was properly removed from greenbelt for tax year 2005 because the greenbelt application was filed after the deadline and said deadline cannot be waived.

The administrative judge finds that Tenn. Code Ann. § 67-5-1005(a)(1) provides as follows:

(a)(1) Any owner of land may apply for its classification as agricultural by filing a written application with the assessor of property by March 1 of the first year for which the classification is sought. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. New owners of the land who desire to continue the previous classification must apply with the assessor by March 1 in the year following transfer of ownership. *New owners may establish eligibility after March 1 only by appeal pursuant to parts 14 and 15 of this chapter, duly filed after notice of the assessment change is sent by the assessor, and reapplication must be made as a condition to the hearing of the appeal.*

[Emphasis supplied]

Tennessee Code Annotated Section 67-5-1412, in turn, provides as follows:

(e) Appeals to the state board of equalization from action of a local board of equalization must be filed before August 1 of the tax year, or within forty-five (45) days of the date notice of the local board action was sent, whichever is later. If notice of an assessment or classification change pursuant to § 67-5-508 was sent to the taxpayer's last known address later than ten (10) days before the adjournment of the local board of equalization, the taxpayer may appeal directly to the state board at any time within forty-five (45) days after the notice was sent. If notice was not sent, the taxpayer may appeal directly to the state board at any time within forty-five (45) days after the tax billing date for the assessment. The taxpayer has the right to a hearing and



determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Based upon the foregoing, the administrative judge finds that the taxpayer had until no later than March 1, 2005 to file a greenbelt application with the assessor.<sup>1</sup> The administrative judge finds that the "reasonable cause" provision in Tenn. Code Ann. § 67-5-1412(e) does not apply to deadlines for greenbelt application. See *Clara T. Miller* (Assessment Appeals Commission) (Robertson County, Tax Year 1999) which is appended to this order and hereby incorporated by reference.

#### ORDER

It is therefore ORDERED that the assessor's removal of subject property from the greenbelt program for tax year 2005 be affirmed and the following value and assessment remain in effect for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$80,800	\$ -0-	\$80,800	\$20,200

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order";** or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

<sup>1</sup> The administrative judge is assuming arguendo that the ownership of subject property transferred in 2004. The administrative judge finds that March 1, 2004 would constitute the deadline if it is assumed that the property ownership changed with the decedent's death on December 4, 2003.

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of July, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Thomas Akers  
Kay Sandifer, Assessor of Property